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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,171

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Yusuke Shimizu

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EXAMINER

RAYYAN, SUSAN F

ART UNIT

PAPER NUMBER

2167

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/767,171

Applicant(s)

SHIMIZU ET AL.

Examiner

Susan F. Rayyan

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/26/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-10 are pending.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on July 25, 2005 was filed before First Office Action. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0221308 A1 issued to Craig D. Cutter et al ("Cutter") in view of US 2006/0074810 issued to Mark Henricus Verberkt ("Verberkt").**

**As per independent claim 1** Cutter teaches:

A preference information managing apparatus which outputs preference information reflecting a user's preference (see Abstract), comprising:  
a storing unit operable to store characteristics information obtained by the obtaining unit ( paragraph 72, as storage system to store content and metadata (characteristic information));  
a calculating unit operable to calculate a score of each piece of characteristics information stored in the storing unit, and output a piece of characteristics information whose score is high, as the preference information (paragraph 81, lines 7-9, calculative outcome of relevance to the user into an ordered list and paragraph 90, as Now playing list includes content available to the user that fits the user profile and/or content that meets priority program requirements).

Cutter does not explicitly teach an obtaining unit operable to obtain one or more pieces of characteristics information corresponding to a packaged content used by the user. Verberkt does teach this limitation (paragraph 38, CD-ROM and DVD-ROM equates to package content and maintaining local content information) to provide equivalent content to the user. It would have been obvious to one of ordinary skill in the art the time of the invention to modify Cutter with an obtaining unit operable to obtain

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one or more pieces of characteristics information corresponding to a packaged content used by the user to provide equivalent content to the user (paragraph 44, lines 1-6).

**As per claim 2** same as claim arguments above and Verberkt teaches:

Wherein the obtaining unit obtains an ID, which is recorded in the packaged content, from a packaged content using unit which reads the packaged content, and (ii) characteristics information from an external apparatus based on the obtained ID (paragraph 38, as content information from DVD with equates to the package information to include ID).

**As per claim 3** same as claim arguments above and Verberkt teaches:

wherein the obtaining unit obtains characteristics information, which is recorded in the packaged content, from a packaged content using unit which reads the packaged content (paragraph 38, as content information from DVD with equates to the package information).

**As per claim 4** same as claim arguments above and Cutter teaches:

Wherein the obtaining unit obtains a usage type from the ... content, which indicates whether the ... content is for purchase or for rental (paragraph 81, as content meta values include availability and subscription or cost of content);

and the calculating unit calculates the score of each piece of characteristics information in such a manner that in the case where the obtained usage type indicates that the content is for purchase, the score of each piece of characteristics information is

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multiplied by a larger coefficient than a coefficient for the case where the obtained usage type indicates that the content is for rental (paragraph 82, as calculates based on cost to obtain the content ) .

**As per claim 5** same as claim arguments above and Cutter teaches:

Wherein the obtaining unit further obtains one or more pieces of characteristics information corresponding to a non-packaged content used by the user 9( paragraph 70, providing metadata about content available by VOD);

and the calculating unit (i) calculates the score of each piece of characteristics information corresponding to the packaged and the non-packaged contents in such a manner that the score of each piece of characteristics information corresponding to the packaged content is multiplied by a larger coefficient than a coefficient for characteristics information corresponding to the non-packaged content , and (ii) outputs a piece of characteristics information whose score is high, among al pieces of characteristics information corresponding to the packaged and the non-packaged contents, as the preference information (paragraph 75-76, as metadata elements (characteristic information ) have weighting factors and the weighting system is subjectively applied and paragraph 90, programming listed such as Now Playing list).

**As per claim 6** same as claim arguments above and Cutter teaches:

wherein the storing unit stores characteristics information corresponding to the packaged and the non-packaged contents in a form where whether a source of characteristics information is the packaged content or the non-packaged content is identifiable, and the calculating unit multiplies, when performing the calculation, the score of each piece of characteristics information corresponding to the packaged content by a larger coefficient than a coefficient for characteristics information corresponding to the non-packaged content( paragraph 72, as storage system to store content and metadata (characteristic information) and paragraph 74 VOD as non-package information, paragraph 75-76, as metadata elements (characteristic information ) have weighting factors and the weighting system is subjectively applied , paragraph 81, as calculative outcomes of relevance to the user to generate an ordered list and paragraph 90, programming listing such as Now Playing list).

**As per claim 7** same as claim arguments above and Cutter teaches:

Wherein the storing unit stores characteristics information corresponding to the packaged and the non-packaged contents after the score of each piece of characteristics information corresponding to the packaged content is multiplied by a larger coefficient than a coefficient for characteristics information corresponding to the non-packaged content( paragraph 72, as storage system to store content and metadata (characteristic information) and paragraph 74 VOD as non-package information and paragraph 75-76, as metadata elements (characteristic information )

have weighting factors and the weighting system is subjectively applied , paragraph 81, as calculative outcomes of relevance to the user to generate an ordered list and paragraph 90, programming listing such as Now Playing list).

**As per claim 8** same as claim arguments above and Cutter teaches:

Wherein the obtaining unit obtains a usage type from the packaged content, which indicates whether the packaged content is for purchase or for rental, and the calculating unit calculates the score of each piece of characteristics information in such a manner that in the case where the obtained usage type indicates that the content is for purchase, the score of each piece of characteristics information is multiplied by a larger coefficient than a coefficient for the case where the obtained usage type indicates that the content is for rental(paragraph 81, as content meta values include availability and subscription or cost of content and paragraph 82, as calculates based on cost to obtain the content ).

**As per independent claim 9** Cutter teaches:

a storing step for storing characteristics information obtained by the obtaining step ( paragraph 72, as storage system to store content and metadata (characteristic information));

calculating step for calculating a score of each piece of characteristics information stored by the storing step, and output a piece of characteristics information whose score is high, as the preference information(paragraph 81, lines 7-9, calculative outcome of relevance to the user into an ordered list and paragraph 90, as Now playing



list includes content available to the user that fits the user profile and/or content that meets priority program requirements).

Cutter does not explicitly teach an obtaining step for obtaining one or more pieces of characteristics information corresponding to a packaged content used by the user;

Verberkt does teach this limitation (paragraph 38, CD-ROM and DVD-ROM equates to package content and maintaining local content information) to provide equivalent content to the user. It would have been obvious to one of ordinary skill in the art the time of the invention to modify Cutter an obtaining step for obtaining one or more pieces of characteristics information corresponding to a packaged content used by the user; to provide equivalent content to the user (paragraph 44, lines 1-6).

**As per claim 10** same as claim arguments above and Cutter teaches:

wherein the obtaining step further obtains one or more pieces of characteristics information corresponding to a non-packaged content used by the user( paragraph 70, providing metadata about content available by VOD); and

the calculating step (i)calculates the score of each piece of characteristics information corresponding to the packaged and the non-packaged contents in such a manner that the score of each piece of characteristics information corresponding to the packaged content is multiplied by a larger coefficient than a coefficient for characteristics information corresponding to the non-packaged content, and outputs a piece of characteristics information whose score is high, among all pieces of characteristics information corresponding to the packaged and the non-packaged

contents, as the preference information(paragraph 75-76, as metadata elements (characteristic information ) have weighting factors and the weighting system is subjectively applied and paragraph 90, programming listed such as Now Playing list).

### Contact Information


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (571) 272-1675. The examiner can normally be reached M-F: 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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